

REMARKS

Applicant is in receipt of the Office Action mailed December 23, 2003. Claims 1, 17, and 22 have been amended. Reconsideration of the present case is earnestly requested in light of the following remarks.

§102 Rejections

Claims 1, 2, 4-9, 11, 12, and 17 were rejected under 35 U.S.C. 102(b) as being anticipated by Chainani et al. (U.S. Patent No. 5,724,074, hereinafter "Chainani").

As the Examiner is certainly aware, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Chainani teaches and discloses controlling headlights 34 on a programmable toy from a graphical interface.

Contradistinctively to headlights on a programmable toy, Applicant's Specification includes:

The portable computing device 102 may also comprise a display 716. The display 716 may be any of various types, such as an LCD (liquid crystal display). The display for a typical portable computing device may be small compared to the display of a desktop computer system. A graphical user interface (GUI) 722 for the graphical program may be displayed on the display 716. The processor 710 executing code and data from the memory 712 may provide a means for generating and displaying the GUI. (Specification page 23, lines 14-19)

Accordingly, Chainani nowhere teaches or suggests "...displaying one or more user interface elements on a display of the portable computing device" as currently

recited in pertinent part by claim 1. Therefore, Applicant respectfully submits that claim 1 is patentably distinguished over Chainani for at least the reason presented. Accordingly, Applicant respectfully submits that claim 1 and those dependent thereon are allowable.

Claim 17 includes limitations similar to claim 1, specifically, the feature that “the portable computing device includes a display, wherein the display is operable to display one or more user interface elements”, and so the arguments presented above apply with equal force to claim 17, as well. Applicant respectfully submits that for at least the reasons presented above, claim 17 and those dependent thereon are patentably distinguished over Chainani and are thus allowable.

Removal of the §102 rejection of claims 1, 2, 4-9, 11, 12, and 17 is respectfully requested.

§103 Rejections

The Office Action states: “Claims 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chainani as applied to claims 1 and 17 above further in view of U.S. Patent No. 5,638,299 to Miller.” This rejection is respectfully traversed.

Applicant respectfully submits that since claims 1 and 17 have been shown to be patentably distinguishable over Chainani, and thus allowable, claims 3 and 18, which are respectively dependent thereon, are also allowable, for at least the reasons provided above. However, additional arguments directed at these claims are provided below to further explain why they are allowable.

Applicant respectfully submits that Chainani is in the field electronically actuated toys. Chainani states that:

The present invention generally relates to a method for controlling electrically actuated toys, and more specifically, to a method for producing a program used by a controller to control the manner in which the toy is actuated. (Chainani col 1, lines 6-10) (*emphasis added*)

Applicant respectfully submits that Miller is in the field of data-acquisition in industrial applications. Miller states that:

This invention relates to data-acquisition systems, specifically to such data-acquisition systems which are suited for use in industry for temporary connection to aid in diagnosing intermittent process and equipment anomalies. (Miller col 1, lines 6-10) (*emphasis added*)

Accordingly, Applicant respectfully submits that a person of ordinary skill in the art at the time of Applicant's invention would not have been aware of or attempted to combine teachings from such dissimilar fields as toys and data-acquisition systems suited for use in industry. Applicant respectfully submits that the fields of Chainani and Miller are non-analogous. Accordingly, Applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify and/or combine the teaching Chainani with the teaching of Miller.

Applicant further submits that no motivation or suggestion to combine is provided in Chainani or Miller, and that even if Chainani and Miller were combinable, which Applicant argues they are not, the resulting combination would not teach Applicant's invention as represented in claim 1, nor as represented in claim 3.

Miller discloses "a self-contained, light-weight, programmable data-acquisition system is constructed largely from readily available personal computer (PC) subassemblies" (Miller Abstract), referred to as a datalogger. Applicant respectfully submits that Miller provides no teaching, suggestion, or motivation that the datalogger described in Miller includes a display. In fact, in the only pictorial representation of the datalogger presented in Miller (Figure 1), no display is shown.

Applicant respectfully submits that Chainani and/or Miller nowhere teach or suggest ". . . displaying one or more user interface elements on a display of the portable computing device" as currently recited in pertinent part by claim 1. Therefore, Applicant respectfully submits that claim 1 is patentably distinguished over Chainani and/or Miller,

taken either singly or in combination, for at least the reason presented. Accordingly, Applicant respectfully submits that claim 1 and those dependent thereon are allowable.

Claim 17 includes limitations similar to claim 1, in that the claimed portable computing device includes a display which is operable to display one or more user interface elements, and so the arguments presented above with respect to claim 1 apply with equal force to claim 17, as well. Applicant respectfully submits that for at least the reason presented above, claim 17 and those claims dependent thereon are patentably distinguished over Chainani and/or Miller, either taken singly or in combination, and are thus allowable.

The Office Action rejected claim 10 under 35 U.S.C. 103(a) as being unpatentable over Chainani as applied to claim 1 above, and further in view of MathWorks, “Real-Time Workshop 4”. Applicant respectfully disagrees.

Since claim 10 depends from claim 1, and claim 1 has been shown to be allowable, Applicant respectfully submits that claim 10 is similarly allowable for at least the reasons provided above with respect to claim 1. However, additional arguments directed at claim 10 are provided below to further explain why claim 10 is allowable over the cited art.

Applicant respectfully submits that combining Chainani with the teaching of Real-Time Workshop 4 of MathWorks is improper, and that a *prima facie* case of obviousness cannot be established based on the combination.

As stated in the MPEP §2143: “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations”.

Applicant submits that there is no motivation to combine provided in either Chainani or Real-Time Workshop 4. Furthermore, Chainani teaches away from complexities of a programming environment for the toy:

Toys that are controlled through electrical tether lines are thereby limited in their range of motion. Ideally, a toy should be able to operate without being coupled to a hand control unit through a tether line. Radio controlled toys provide greater versatility, but require that the child constantly interact with the transmitter to control the toy's movement, its direction, and speed. Younger children can have difficulty controlling such a toy in this manner because they may not possess sufficient manual dexterity and hand-eye coordination. Toys that include a programmable controller, which can be programmed by the child, overcome this problem. (Chainani col 1, lines 25-36) (*emphasis added*)

Any provision for programming a toy must be at a level that enables the average child to readily master the technique. Clearly, if the programming skills required are too difficult to acquire, the child will become frustrated with the toy and be unable to create programs that can be used to control it. (Chainani col 1, lines 46-51) (*emphasis added*)

Accordingly, Applicant respectfully submits that with the above in mind, one of ordinary skill in the art at the time of Applicant's invention would not have had a reasonable expectation of success combining the teaching of Chainani with a complex workshop program, i.e., for a younger child, and requiring other products such as "MATLAB 6, Simulink 4, and a C compiler" as the Real-Time Workshop 4 reference requires.

Furthermore, Applicant submits that even if Chainani and Real-Time Workshop 4 were combinable, which Applicant argues they are not, the resulting combination would not teach Applicant's invention as represented in claim 10.

Applicant thus submits that claim 10 is patentably distinct from and non-obvious over, Chainani and Real-Time Workshop 4, and is thus allowable.

Claims 13-16 and 22-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chainani as applied in view of Wilson et al. (U.S. Patent No. 5,392,207, hereinafter “Wilson”). Applicant respectfully disagrees.

Claims 13-16 are dependent from claim 1, which has been shown to be allowable, and so Applicant respectfully submits that claims 13-16 are similarly allowable for at least the reasons provided above with respect to claim 1.

Regarding claim 22, Applicant respectfully submits that Chainani and/or Wilson nowhere teach or suggest “. . . a portable computing device, wherein the portable computing device includes a display, wherein the display is operable to display one or more user interface elements” as currently recited in pertinent part by claim 22. Therefore, Applicant respectfully submits that claim 22 is patentably distinguished over Chainani and/or Wilson, taken either singly or in combination, for at least the reason presented. Accordingly, Applicant respectfully submits that claim 22 and those dependent thereon are allowable.

Claims 19-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over dSPACE, “Solutions Control” (dSPACE) in view of Official Notice. This rejection is respectfully traversed.

The Office Action states: “Referring to claim 19, dSPACE discloses storing a first graphical program on a computing device, wherein the first graphical program is configured to invoke a second graphical program (page 62, paragraph 3; page 63 Figure). . .”

Imagine a vehicle hardware-in-the-loop simulation to test a prototype ABS control unit. The whole vehicle is simulated on a dSPACE processor board. To put your control unit through its paces, you perform the most extreme maneuvers: emergency braking while cornering, avoidance maneuvers on an icy road, and so on. At the same time, you observe the

car on the screen as if it were real. When you step on the accelerator, you see the car running faster. When you put on the brakes, you see the car slowing down or even spinning, if your ABS controller does not work properly. (DSpace Solutions Control Catalog 1999, page 62, paragraph 3) (*emphasis added*)

Applicant respectfully submits that a dSPACE processor board is an embedded processor board that is comprised and affixed inside a desktop personal computer. The dSPACE processor board is not a portable computing device.

In contrast, Applicant's invention as recited in pertinent part by claim 19 includes "A method for executing a graphical program on a **portable computing device**. . ." dSPACE nowhere teaches or suggests this feature.

In further contradistinction, Applicant's invention as recited in pertinent part by claim 19 further includes ". . .storing a first graphical program on the portable computing device, wherein **the first graphical program is configured to invoke execution of a second graphical program**. . ." dSPACE nowhere teaches or suggests this feature.

Therefore, Applicant respectfully submits that claim 19 is patentably distinguished over dSPACE for at least the reason or reasons presented. Accordingly, Applicant respectfully submits that claim 19 and those dependent thereon are allowable.

Furthermore, dSPACE nowhere teaches or suggests ". . .the graphical program comprises a plurality of interconnected nodes which visually indicate functionality of the graphical program. . ." as recited in pertinent part by claim 21. Moreover, Applicant's invention as recited in pertinent part by claim 21 includes ". . .invoking execution of the second portion of the graphical program on the second computing device in response to said executing." dSPACE nowhere teaches or suggests this feature. Therefore, Applicant respectfully submits that, for at least for the reason or reasons presented, claim 21 is patentably distinguished over dSPACE and is allowable.

Removal of the section §103 rejection of claims 3, 10, 13-16, and 18-26 is respectfully requested.

Applicant also asserts that numerous ones of the dependent claims recited further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

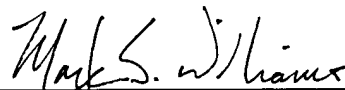
Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-62801/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Request for Approval of Drawing Changes
- ☒ Notice of Change of Address
- ☐ Check in the amount of \$ for fees ().
- ☐ Other:

Respectfully submitted,



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